

Regular Session, 2012

SENATE BILL NO. 749 (Substitute of Senate Bill No. 51 by Senator Guillory)

BY SENATOR GUILLORY

RETIREMENT BENEFITS. Provides for retirement eligibility for certain state employees.
(6/15/12)

AN ACT

To amend and reenact R.S. 11:441(A)(1)(introductory paragraph) and (2)(a)(introductory paragraph) and (b)(introductory paragraph), and 761(A)(1)(introductory paragraph), (2)(a)(introductory paragraph), (3)(introductory paragraph), and (4) and to enact R.S. 11:441(A)(4) and 761(A)(5), relative to retirement eligibility; to provide a schedule of retirement ages for certain members of the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:441(A)(1)(introductory paragraph) and (2)(a)(introductory paragraph) and (b)(introductory paragraph), and 761(A)(1)(introductory paragraph), (2)(a)(introductory paragraph), (3)(introductory paragraph), and (4) are hereby amended and reenacted and R.S. 11:441(A)(4) and 761(A)(5) are hereby enacted to read as follows:

§441. Eligibility for retirement

A.(1) ~~Any~~ **Subject to the provisions of Paragraph (4) of this Subsection,**
any member hired on or before June 30, 2006, or any member who receives a benefit calculated pursuant to R.S. 11:444(A)(2)(b) and whose first employment making him

1 eligible for membership in one of the state systems occurred on or before December
2 31, 2010, shall be eligible for retirement if he has:

3 * * *

4 (2)(a) ~~Any~~ **Subject to the provisions of Paragraph (4) of this Subsection,**
5 **any** member hired on or after July 1, 2006, shall be eligible for retirement if he has:

6 * * *

7 (b) Except for members of the Hazardous Duty Services Plan, as defined in
8 R.S. 11:612 **and subject to the provisions of Paragraph (4) of this Subsection,**
9 any member whose first employment making him eligible for membership in one of
10 the state systems occurred on or after January 1, 2011, **and on or before June 30,**
11 **2012,** including any judge, court officer, governor, lieutenant governor, clerk or
12 sergeant-at-arms of the House of Representatives, secretary or sergeant-at-arms of
13 the Senate, or state treasurer, shall be eligible for retirement if he has:

14 * * *

15 **(4)(a) Notwithstanding the provisions of R.S. 24:36 or any other law to**
16 **the contrary, any member, including the governor who is in office on June 30,**
17 **2012, who was hired on or before June 30, 2006, and who is not subject to the**
18 **provisions of Act 75 of the 2005 Regular Session as amended by Act 992 of the**
19 **2010 Regular Session and who retires with fewer than thirty years of service**
20 **may retire with an unreduced benefit no earlier than:**

21 **(i) Age fifty-five if he has at least twenty-five but fewer than thirty years**
22 **of service on June 30, 2012.**

23 **(ii) Age fifty-eight if he has at least twenty but fewer than twenty-five**
24 **years of service on June 30, 2012.**

25 **(iii) Age sixty-one if he has at least fifteen but fewer than twenty years**
26 **of service on June 30, 2012.**

27 **(iv) Age sixty-four if he has at least ten but fewer than fifteen years of**
28 **service on June 30, 2012.**

29 **(v) The higher of age sixty-seven or the retirement age provided by the**

1 Social Security Act, 42 U.S.C. 416, if he has fewer than ten years of service on
2 June 30, 2012.

3 **(b) Notwithstanding the provisions of R.S. 24:36 or any other law to the**
4 **contrary, any member, including the governor who is in office on June 30, 2012,**
5 **who was hired on or after July 1, 2006, and on or before June 30, 2012, or who**
6 **is subject to the provisions of Act 75 of the 2005 Regular Session as amended by**
7 **Act 992 of the 2010 Regular Session and who retires with fewer than thirty**
8 **years of service may retire with an unreduced benefit no earlier than:**

9 **(i) Age sixty-four if he has at least ten years of service on June 30, 2012.**

10 **(ii) The higher of age sixty-seven or the retirement age provided by the**
11 **Social Security Act, 42 U.S.C. 416, if he has fewer than ten years of service on**
12 **June 30, 2012.**

13 **(iii) Nothing in this Subparagraph shall be construed to provide an**
14 **earlier retirement eligibility for any member than prescribed by Paragraph (1),**
15 **(2), or (3) of this Subsection.**

16 **(c) Any member to whom Subparagraph (a) or (b) of this Paragraph**
17 **applies shall be eligible to retire under any applicable provision of law;**
18 **however, if he retires before attaining the age established in this Paragraph, he**
19 **shall receive a reduced benefit. Upon his application for retirement he shall**
20 **select one of the benefit reduction Options provided in this Subparagraph. Any**
21 **other applicable actuarial reduction provided for in this Subsection shall also**
22 **be made to his retirement benefit.**

23 **(i) Phased Benefit Option. (aa) For every year of service credit as of**
24 **June 30, 2012, the member shall receive a benefit equal to two and one-half**
25 **percent of average compensation calculated as of June 30, 2012, effective on his**
26 **retirement date.**

27 **(bb) Beginning with the first regularly-scheduled benefit payment after**
28 **the member attains the retirement age required by this Paragraph, the**
29 **member's benefit shall be increased by an amount equal to two and one-half**

1 percent of average compensation calculated as of the member's retirement date,
2 for every year of service credit from July 1, 2012, to the member's retirement
3 date.

4 (ii) Actuarially Reduced Benefit Option. Effective on his retirement
5 date, the member shall begin receiving a benefit equal to the sum of the
6 following:

7 (aa) For every year of service credit as of June 30, 2012, two and one-half
8 percent of average compensation calculated as of June 30, 2012.

9 (bb) For every year of service credit from June 30, 2012, through the
10 earlier of:

11 (I) The date of the member's retirement; or

12 (II) The effective date of an increase in the retirement age provided by
13 the Social Security Act, 42 U.S.C. 416, if such date applies to the member
14 pursuant to Item (a)(v) or (b)(ii) of this Paragraph;

15 Two and one-half percent of average compensation calculated as of such
16 date, actuarially reduced from the date the member would have attained the age
17 required by this Paragraph.

18 (cc) For every year of service credit, if any, from the effective date of an
19 increase in the retirement age provided by the Social Security Act, 42 U.S.C.
20 416, to the date of the member's retirement, two and one-half percent of average
21 compensation calculated as of the member's retirement date, actuarially
22 reduced from the date the member would have attained the retirement age
23 required by this Paragraph. This Subitem shall only apply to members with a
24 retirement date which is later than the effective date of an increase in the
25 retirement age provided by the Social Security Act, 42 U.S.C. 416.

26 (d) A member hired on or after July 1, 2012, is eligible for retirement if
27 he has at least five years of service and has attained the higher of age of sixty-
28 seven or the retirement age provided for by the Social Security Act, 42 U.S.C.
29 416.

1 (e) In no event shall any member to whom this Paragraph applies who
2 has completed the Deferred Retirement Option Plan receive his supplemental
3 benefit before he has attained the retirement age established by this Paragraph.

4 (f) The provisions of Subparagraphs (a), (b), (c), (d), and (e) of this
5 Paragraph shall not apply to the following persons, who may retire under any
6 provision of this Chapter applicable to their service in the system:

7 (i) A member who was born on or before June 30, 1957.

8 (ii) A member who is or has been an elected judge or court officer, as
9 provided in R.S. 11:553.

10 (iii) A member of the Hazardous Duty Services Plan.

11 (iv) Any person who would have been a member of the Hazardous Duty
12 Services Plan had his first employment occurred after December 31, 2010.

13 (v) Any member who is a public safety services employee referred to as
14 "member" or "members" in R.S. 11:601(B); a peace officer employed by the
15 Department of Public Safety and Corrections, office of state police, other than
16 state troopers, as provided in R.S. 11:444(A)(2)(b); an employee of the
17 Department of Revenue, office of alcohol and tobacco control, as provided in
18 R.S. 11:444(A)(2)(c); a wildlife agent; or an employee of the bridge police.

19 * * *

20 §761. Retirement benefits; application; eligibility requirements; effective date;
21 cancellation; errors and omissions

22 A.(1) Any Subject to the provisions of Paragraph (4) of this Subsection,
23 any person who became a member prior to July 1, 1999, may retire upon written
24 application to the board of trustees, if at the time of application the member:

25 * * *

26 (2)(a) Any Subject to the provisions of Paragraph (4) of this Subsection,
27 any person who became a member on or after July 1, 1999, may retire upon written
28 request to the board of trustees, if the member:

29 * * *

1 (3) ~~Any~~ Subject to the provisions of Paragraph (4) of this Subsection,
2 any person whose first employment making him eligible for membership in one of
3 the state systems occurred on or after January 1, 2011, may retire upon written
4 application to the board of trustees, if at the time of application the member:

5 * * *

6 (4)(a) The provisions of this Paragraph shall apply to a member who is
7 employed by an institution of postsecondary education, the Board of Regents,
8 or a postsecondary education management board but who is not a member of
9 the optional retirement plan. Nothing in this Paragraph shall be construed to
10 provide an earlier retirement eligibility for any member than prescribed by
11 Paragraph (1), (2), or (3) of this Subsection or in R.S. 11:768, whichever is
12 applicable.

13 (a) Any member to whom this Paragraph applies who was hired on or
14 before December 30, 2010, and who retires with fewer than thirty years of
15 service may retire with an unreduced benefit no earlier than:

16 (i) Age fifty-five if he has at least twenty-five but fewer than thirty years
17 of service on June 30, 2012.

18 (ii) Age fifty-eight if he has at least twenty but fewer than twenty-five
19 years of service on June 30, 2012.

20 (iii) Age sixty-one if he has at least fifteen but fewer than twenty years
21 of service on June 30, 2012.

22 (iv) Age sixty-four if he has at least ten but fewer than fifteen years of
23 service on June 30, 2012.

24 (v) The higher of age sixty-seven or the retirement age provided by the
25 Social Security Act, 42 U.S.C. 416, if he has fewer than ten years of service on
26 June 30, 2012.

27 (b) Any member to whom this Paragraph applies who was hired on or
28 after January 1, 2011, may retire with an unreduced benefit no earlier than the
29 higher of age sixty-seven or the retirement age provided by the Social Security

1 Act, 42 U.S.C. 416.

2 (c) Any member to whom Subparagraph (a) or (b) of this Paragraph
3 applies shall be eligible to retire under any applicable provision of law;
4 however, if he retires before attaining the age established in this Paragraph, he
5 shall receive a reduced benefit. Upon his application for retirement he shall
6 select one of the benefit reduction Options provided in this Subparagraph. Any
7 other applicable actuarial reduction provided for in this Subsection shall also
8 be made to his retirement benefit.

9 (i) Phased Benefit Option. (aa) For every year of service credit as of
10 June 30, 2012, the member shall receive a benefit equal to two and one-half
11 percent of average compensation calculated as of June 30, 2012, effective on his
12 retirement date.

13 (bb) Beginning with the first regularly-scheduled benefit payment after
14 the member attains the retirement age required by this Paragraph, the
15 member's benefit shall be increased by an amount equal to two and one-half
16 percent of average compensation calculated as of the member's retirement date,
17 for every year of service credit from July 1, 2012, to the member's retirement
18 date.

19 (ii) Actuarially Reduced Benefit Option. Effective on his retirement
20 date, the member shall begin receiving a benefit equal to the sum of the
21 following:

22 (aa) For every year of service credit as of June 30, 2012, two and one-half
23 percent of average compensation calculated as of June 30, 2012.

24 (bb) For every year of service credit from June 30, 2012, through the
25 earlier of:

26 (I) The date of the member's retirement; or
27 (II) The effective date of an increase in the retirement age provided by
28 the Social Security Act, 42 U.S.C. 416, if such date applies to the member
29 pursuant to Item (a)(v) or Subparagraph (b) of this Paragraph;

1 Two and one-half percent of average compensation calculated as of such
2 date, actuarially reduced from the date the member would have attained the age
3 required by this Paragraph.

4 (cc) For every year of service credit, if any, from the effective date of an
5 increase in the retirement age provided by the Social Security Act, 42 U.S.C.
6 416, to the date of the member's retirement, two and one-half percent of average
7 compensation calculated as of the member's retirement date, actuarially
8 reduced from the date the member would have attained the retirement age
9 required by this Paragraph. This Subitem shall only apply to members with a
10 retirement date which is later than the effective date of an increase in the
11 retirement age provided by the Social Security Act, 42 U.S.C. 416.

12 (d) Any member to whom this Paragraph applies who was hired on or
13 after July 1, 2012, is eligible for retirement if he has at least five years of service
14 and has attained the higher of age sixty-seven or the retirement age provided
15 for by the Social Security Act, 42 U.S.C. 416.

16 (e) In no event shall any member to whom this Paragraph applies who
17 has completed the Deferred Retirement Option Plan receive his supplemental
18 benefit before he has attained the retirement age established by this Paragraph.

19 (f) The provisions of Subparagraphs (a), (b), (c), (d), and (e) of this
20 Paragraph shall not apply to a member who was born on or before June 30,
21 1957.

22 ~~(5)(a)~~A properly executed application for retirement shall be considered as
23 officially filed when received by the board of trustees of this system. Retirement
24 benefits shall become effective as of the date a properly executed application for
25 retirement is received by the board of trustees of this system or the day after the
26 member terminates from teaching service, whichever is later.

27 (b) A member may cancel his application for retirement only prior to
28 negotiating, cashing, or depositing any benefit check including an estimated benefit
29 check.

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(B) The Public Retirement Systems' Actuarial Committee is hereby authorized to prepare an actuarial valuation or revised employer contribution rate to be utilized in the fiscal year beginning on July 1, 2012, calculated in accordance with R.S. 11:102, which has been prepared on behalf of the division of administration by a member of the American Academy of Actuaries who meets the qualification requirements of the academy to issue a written statement of actuarial opinion.

Section 3. Because the legislature finds and declares that questions of law may be raised by some persons with respect to the constitutionality of some of the provisions of this Act, the public welfare requires that such questions of law be resolved with expedition prior to such time as its provisions take effect in order to avoid disruption of the orderly implementation of its provisions. Therefore, the legislature finds that an expedited hearing schedule for actions filed relative to the constitutionality of any provision of this Act should be immediately made available in order to avoid confusion by the public. Therefore, any domiciliary of this state may institute an action in the Nineteenth Judicial District Court seeking a declaratory judgment to determine the constitutionality of the provisions of this Act. The attorney general and the governor shall be served with a copy of the proceeding and shall be entitled to be heard. In the interest of further expediting this procedure, the Nineteenth Judicial District Court, First Circuit Court of Appeal, and Louisiana Supreme Court are urged to minimize all unnecessary delays in order to resolve any questions of law no later than thirty days prior to the prefiling deadline for retirement legislation for the 2013 Regular Session, and the courts may suspend all applicable rules of court for this limited purpose.

1 Section 4. If a final judgment declares any of the provisions of this Act
2 unconstitutional or unconstitutional as applied to a particular class of employees, the other
3 provisions of this Act shall remain in effect and also shall be applicable to all other classes
4 of employees unrelated to the judgment.

5 Section 5. This Act shall become effective on June 15, 2012; if vetoed by the
6 governor and subsequently approved by the legislature, this Act shall become effective on
7 June 15, 2012, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Laura Gail Sullivan.

DIGEST

Present law provides for retirement eligibility for members of the Louisiana State Employees' Retirement System (LASERS) and the Teachers' Retirement System of Louisiana (Teachers').

Present law generally provides for retirement eligibility in LASERS for rank-and-file members first employed before July 1, 2006, as follows:

1. 10 years of service credit at age 60.
2. 25 years of service credit at age 55.
3. 30 years of service credit at any age.
4. 20 years of service credit at any age, with an actuarially-reduced benefit.

Present law generally provides for retirement eligibility in LASERS for rank-and-file members first employed on or after July 1, 2006, and for Teachers' members first employed on or after Jan. 1, 2011 as follows:

1. 5 years of service credit at age 60.
2. 20 years of service credit at any age, with an actuarially-reduced benefit.

Present law provides for retirement eligibility for Teachers' members hired before July 1, 1999, with unreduced benefits as follows:

1. 20 years of service credit at age 65.
2. 25 years of service credit at age 55.
3. 30 years of service credit at any age.

Further provides that Teachers' members employed on or after July 1, 1999, may retire with:

1. 5 years of service credit at age 60.
2. 25 years of service credit at age 55.

3. 30 years of service credit at any age.
4. 20 years of service credit at any age, with an actuarially-reduced benefit.

Proposed law provides for a schedule of retirement ages for nonhazardous duty members of LASERS and higher education members of Teachers' based on the member's service credit on June 30, 2012. Provides that a member may retire no earlier than:

1. Age 55 if he has at least 25 years of service.
2. Age 58 if he has at least 20 but fewer than 25 years of service.
3. Age 61 if he has at least 15 but fewer than 20 years of service.
4. Age 64 if he has at least 10 but fewer than 15 years of service.
5. Age 67, or the Social Security age if higher, if he has fewer than 10 years of service.

Proposed law specifies that nothing in proposed law shall be construed to provide an earlier retirement eligibility than the eligibility in present law.

Proposed law provides that a member shall be eligible to retire under any otherwise applicable provision of present law with his retirement benefit reduced by selecting a benefit reduction option provided by proposed law.

Specifies that any other applicable actuarial reduction provided for in present law shall also be made to his retirement benefit. Further specifies that in no event shall any member who has completed the Deferred Retirement Option Plan (DROP) receive his supplemental benefit before he has attained the retirement age established by proposed law.

Proposed law retains eligibility with 30 years of service at any age for members to whom this provision of present law applies. Further provides that certain other active employees for whom present law provides eligibility at age 60 may still retire at age 60, rather than the higher age provided by proposed law, with 30 years of service.

Proposed law does not apply to anyone who is at least 55 years old on June 30, 2012.

Present law provides that valuations shall be presented to the committee for consideration by the legislative auditor's office and the retirement system. Proposed law expands the agencies which may present actuarial valuations to the Public Retirement Systems' Actuarial Committee for consideration to include the division of administration, for purposes of determining the employer contribution rate to be remitted for the fiscal year beginning July 1, 2012.

Proposed law provides for an expedited hearing process if proposed law is subjected to legal challenges. Provides for severability if a court declares any provisions of proposed law to be unconstitutional as applicable to certain members of LASERS and Teachers', retaining application of the Act to the remaining members of the system.

Effective June 30, 2012.

(Amends R.S. 11:441(A)(1)(intro para) and (2)(a)(intro para) and (b)(intro para), and 761(A)(1)(intro para), (2)(a)(intro para), (3)(intro para), and (4); adds R.S. 11:441(A)(4) and 761(A)(5))